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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,611	06/02/2006	Michael Abel	244.1002	4577
20311 7590 03/24/2010 LUCAS & MERCANTI, LLP 475 PARK AVENUE SOUTH 15TH FLOOR NEW YORK, NY 10016				
EXAMINER MEISLIN, DEBRA S				
ART UNIT		PAPER NUMBER		
3727				
NOTIFICATION DATE		DELIVERY MODE		
03/24/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

info@lmiplaw.com

Office Action Summary

Application No.

10/562,611

Applicant(s)

ABEL ET AL.

Examiner

D. S. Meislin

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-37, 39, 43 and 47-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 43 and 47-49 is/are allowed.
- 6) ☒ Claim(s) 24-36 is/are rejected.
- 7) ☐ Claim(s) 37 and 39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/28/08 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/28/08.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

1. Claims 24-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 24, line 10, "the direction" lacks antecedent basis. It is not clear from the claim language if applicant is defining a direction toward the first handle part or along a longitudinal axis of the first handle part.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

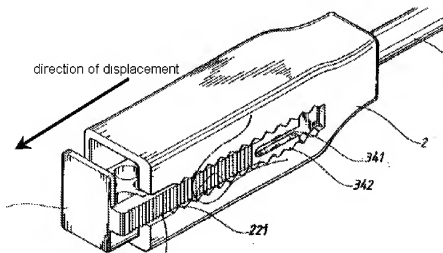
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 24-31 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Feng (5517885).

See figures 1-7 and flexible section "342" acting as a "push-button" as broadly claimed by applicant. The "push-button" is displaceable into a "pot-shaped" cutout counter to the force of a restoring spring (the spring of the flexible arms "342"), as broadly claimed by applicant. The push-button is located below an opening edge of a cutout "22, 231". The latching means includes a pivotable spring tongues with latching projections which interact with latching steps (see elements "341, 342, 22, 221"). The

push-button is located on an end of the second handle, as broadly claimed, and is axially displaceable in the direction (along the axis) of the first handle part. The latching means is movable out of its latching position by pressure on the push button.



4. Claims 24-27 and 35-36 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Liao (2004/0094000).

See figures 2-4 and elastic key "351" acting as a "push-button" as broadly claimed by applicant. The "push-button" is displaceable into a "pot-shaped" cutout counter to the force of a restoring spring (the spring of the elastic key "351"), as broadly claimed by applicant. The push-button is located below an opening edge of a cutout "414". The push-button is located on an end of the second handle, as broadly claimed, and is axially displaceable in the direction (toward) of the first handle part. The latching means leaves its latching position of its own accord by the force of gravity as a result of pressure on an actuating zone.

5. Claims 24 and 35-36 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hu (2004/0025650).

The push-button "3" is located on an end of the second handle, as broadly claimed, and is axially displaceable in the direction (along the axis) of the first handle part. The latching means leaves its latching position of its own accord as a result of pressure on an actuating zone by the force of gravity.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liao (2004/0094000) or Hu (2004/0025650) in view of Wu (6155143).

Feng, Liao or Hu disclose all of the claimed subject matter except for having a prestressed spring for moving two handle parts to an open position following pressure on an actuating zone. Wu discloses a prestressed spring for moving two handle parts to an open position following pressure on an actuating zone. See figures 1, 5 and 15-17 of Wu. It would have been obvious to one having ordinary skill in the art to form the device of Feng, Liao or Hu with a prestressed spring for moving the two handle parts to an open position following pressure on the actuating zone to form an automatically expandable device as taught by Wu.

8. Claims 32-33 may be given favorable consideration if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. Claims 43 and 47-49 are allowed.

10. Claims 37 and 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

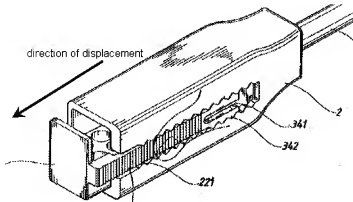
§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Applicant's arguments filed May 6, 2009 have been fully considered but they are not persuasive.

In Feng, the push-button is located on an end of the second handle, as broadly claimed, and is axially displaceable in the direction (along the axis) of the first handle part, see annotated figure 5, below. The latching means is movable out of its latching position by pressure on the push button. Applicant contends that the claims define an orientation of activation which is along the main axis of the tool. The feature upon which

applicant relies is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).



The push-button of Liao is located on an end of the second handle, as broadly claimed, and is axially displaceable in the direction (toward) of the first handle part. The latching means leaves its latching position of its own accord by the force of gravity as a result of pressure on an actuating zone. Applicant contends that the claims define an orientation of activation which is along the main axis of the tool. The feature upon which applicant relies is not recited in the rejected claim(s).

With respect to Hu, one would press on the button "3" aligned along the axis of the tool. The recitation "pressure to the top surface of the turning head" is not claimed by applicant. The latching means leaves its latching position of its own accord as a result of pressure on an actuating zone by the force of gravity.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. S. Meislin whose telephone number is 571 272-4487. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571 272 4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. S. Meislin/
Primary Examiner
Art Unit 3723

23 March 2010